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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-840]

Certain Frozen Warmwater Shrimp from India; Preliminary Results of Antidumping Duty Administrative Review; 2011-2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. The review covers 195 producers/exporters of the subject merchandise. The Department selected two mandatory respondents for individual examination, Apex Frozen Foods Private Limited¹ (Apex) and Devi Fisheries Limited (Devi Fisheries),² and accepted a voluntary response from a third, Falcon Marine Exports Limited/K.R. Enterprises (Falcon). The period of review (POR) is February 1, 2011, through January 31, 2012. We have preliminarily determined that sales to the United States have been made below normal value, and, therefore, are subject to antidumping duties. The Department also preliminarily determines that Baby Marine International and Baby Marine Sarass made no shipments of subject merchandise during the POR. If these preliminary results are adopted in the final results of this review, we will instruct

¹ On December 11, 2012, the Department determined that Apex Frozen Foods Private Limited is the successor-in-interest to Apex Exports. See Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From India, 77 FR 73619 (December 11, 2012).

² On September 13, 2012, we determined that it was appropriate to collapse Devi Fisheries and its affiliates, Satya Seafoods Private Limited and Usha Seafoods, and as a result we are treating these three companies as a single entity. See Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from the Team entitled, "Whether to Collapse Devi Fisheries Limited, Satya Seafoods Private Limited, and Usha Seafoods in the 2011-2012 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India," dated September 13, 2012.

U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: (Insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Henry Almond or Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0049, or (202) 482-3874, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.³ The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description, available in Certain Frozen Warmwater Shrimp From Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011), remains dispositive.

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price/constructed export price is calculated in

³ See the "Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India," (Preliminary Decision Memorandum) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with these results, for a complete description of the Scope of the Order.

accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

In accordance with section 773(b) of the Act, we disregarded the below-cost sales of Apex and Falcon to their respective comparison markets (i.e., the United Kingdom and Japan) in the most recent administrative reviews these companies completed before the initiation of this review. Additionally, based on our analysis of the American Shrimp Processors Association's allegation that Devi Fisheries made sales to its third country market (i.e., Belgium) during the POR that were below the COP, we found that Devi Fisheries' sales to Belgium which fell below the COP were representative of the broader range of models which may be used as a basis for NV. Therefore, we have reasonable grounds to believe or suspect that Apex's, Devi Fisheries', and Falcon's sales of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Accordingly, pursuant to section 773(b)(1) of the Act, we have conducted a COP analysis of all three respondents' sales in the comparative markets in this review. Based on this test, we disregarded certain sales made by Apex, Devi Fisheries, and Falcon in their respective comparison markets which were made at below-cost prices.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete

version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination of No Shipments

Among the companies under review, two companies (*i.e.*, Baby Marine International and Baby Marine Sarass) reported that they made no shipments of subject merchandise to the United States during the POR.⁴

Based on the certifications of these companies and our analysis of CBP information, we preliminarily determine that Baby Marine International and Baby Marine Sarass did not have any reviewable transactions during the POR. In addition, the Department finds that it is not appropriate to rescind the review with respect to these two companies but, rather, to complete the review with respect to them and issue appropriate instructions to CBP based on the final results of this review.⁵

Preliminary Results of the Review

As a result of this review, we preliminarily determine that weighted-average dumping margins exist for the respondents for the period February 1, 2011, through January 31, 2012, as follows:

<u>Manufacturer/Exporter</u>	<u>Percent Margin</u>
Apex Frozen Foods Private Limited	3.49
Devi Fisheries Limited / Satya Seafoods Private Limited / Satya Seafoods Private Limited	3.05
Falcon Marine Exports Limited / K.R. Enterprises	0.00

⁴ For a full explanation of the Department's analysis, see the Preliminary Decision Memorandum.

⁵ See Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011, 78 FR 8493 (February 6, 2013).

Review-Specific Average Rate Applicable to the Following Companies:⁶

<u>Manufacturer/Exporter</u>	<u>Percent Margin</u>
Abad Fisheries Pvt. Ltd.	3.23
Accelerated Freeze-Drying Co.	3.23
Adilakshmi Enterprises	3.23
Allana Frozen Foods Pvt. Ltd.	3.23
Allansons Ltd.	3.23
AMI Enterprises	3.23
Amulya Seafoods	3.23
Anand Aqua Exports	3.23
Ananda Aqua Applications / Ananda Aqua Exports (P) Limited / Ananda Foods	3.23
Andaman Sea Foods Private Limited ⁷	3.23
Angelique Intl	3.23
Anjaneya Seafoods	3.23
Arvi Import & Export	3.23
Asvini Exports	3.23
Asvini Fisheries Private Limited	3.23
Avanti Feeds Limited	3.23
Ayshwarya Seafood Private Limited	3.23
Baby Marine Exports	3.23
Baby Marine International	*
Baby Marine Sarass	*
Bhatsons Aquatic Products	3.23
Bhavani Seafoods	3.23
Bijaya Marine Products	3.23
Blue Fin Frozen Foods Pvt. Ltd.	3.23
Blue Water Foods & Exports P. Ltd.	3.23
Bluefin Enterprises	3.23
Bluepark Seafoods Private Ltd.	3.23
BMR Exports	3.23
Britto Exports	3.23
C P Aquaculture (India) Ltd.	3.23

⁶ This rate is based on the average of the margins calculated for Apex and Devi Fisheries (i.e., those companies selected for mandatory review), weighted by each company's publicly-ranged quantity of reported U.S. transactions. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for the mandatory respondents. Further, pursuant to 19 CFR 351.204(d)(3), we have not included Falcon's weighted-average dumping margin in our calculation of the review-specific average rate.

⁷ The Department initiated this review under the name "Andaman Seafoods Pvt. Ltd." See Certain Frozen Warmwater Shrimp from Brazil, India, and Thailand: Notice of Initiation of Antidumping Duty Administrative Reviews and Request for Revocation of Order in Part, 77 FR 19612 (April 2, 2012) (Initiation Notice). On April 23, 2012, the company notified the Department that its name is Andaman Sea Foods Private Limited. See Andaman Sea Foods Private Limited's April 23, 2012, submission.

Calcutta Seafoods Pvt. Ltd.	3.23
Capithan Exporting Co.	3.23
Castlerock Fisheries Ltd.	3.23
Chemmeens (Regd)	3.23
Cherukattu Industries (Marine Division) ⁸	3.23
Choice Canning Company	3.23
Choice Trading Corporation Private Limited	3.23
Coastal Corporation Ltd.	3.23
Cochin Frozen Food Exports Pvt. Ltd.	3.23
Coreline Exports	3.23
Corlim Marine Exports Pvt. Ltd.	3.23
Damco India Private	3.23
Devi Marine Food Exports Private Ltd. / Kader Exports Private Limited / Kader Investment and Trading Company Private Limited / Liberty Frozen Foods Pvt. Ltd. / Liberty Oil Mills Ltd. / Premier Marine Products / Universal Cold Storage Private Limited	3.23
Devi Sea Foods Limited ⁹	3.23
Diamond Seafood Exports / Edhayam Frozen Foods Pvt. Ltd. / Kadalkanny Frozen Foods / Theva & Company	
Digha Seafood Exports	3.23
Esmario Export Enterprises	3.23
Exporter Coreline Exports	3.23
Five Star Marine Exports Private Limited	3.23
Forstar Frozen Foods Pvt. Ltd.	3.23
Frontline Exports Pvt. Ltd.	3.23
G A Randerian Limited	3.23
Gadre Marine Exports	3.23
Galaxy Maritech Exports P. Ltd.	3.23
Gayatri Seafoods	3.23
Geo Aquatic Products (P) Ltd.	3.23
Geo Seafoods	3.23
Grandtrust Overseas	3.23
Goodwill Enterprises	3.23
GVR Exports Pvt. Ltd.	3.23

⁸ This company was listed in the Initiation Notice as “Cherukattu Industries.” After receiving clarification from the company, we have made appropriate changes. See Cherukattu Industries (Marine Division)’s April 23, 2012, submission.

⁹ The Department received a request for an administrative review of the antidumping order on shrimp from India with respect to Devi Sea Foods Limited (Devi). Shrimp produced and exported by Devi was excluded from this order effective February 1, 2009. See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part, 75 FR 41813, 41814 (July 19, 2010). However, shrimp produced by other Indian producers and exported by Devi remains subject to the order. Thus, this administrative review with respect to Devi covers only shrimp which was produced in India by other companies and exported by Devi.

Haripriya Marine Export Pvt. Ltd.	3.23
Harmony Spices Pvt. Ltd.	3.23
HIC ABF Special Foods Pvt. Ltd.	3.23
Hindustan Lever, Ltd.	3.23
Hiravata Ice & Cold Storage	3.23
Hiravati Exports Pvt. Ltd.	3.23
Hiravati International Pvt. Ltd. (located at APM – Mafco Yard, Sector – 18, Vashi, Navi, Mumbai – 400 705, India)	3.23
Hiravati International Pvt. Ltd. (located at Jawar Naka, Porbandar, Gujarat, 360 575, India)	3.23
IFB Agro Industries Ltd.	3.23
Indian Aquatic Products	3.23
Indo Aquatics	3.23
Innovative Foods Limited	3.23
International Freezefish Exports	3.23
Interseas	3.23
ITC Limited, International Business	3.23
ITC Ltd.	3.23
Jagadeesh Marine Exports	3.23
Jaya Satya Marine Exports	3.23
Jaya Satya Marine Exports Pvt. Ltd.	3.23
Jayalakshmi Sea Foods Private Limited	3.23
Jinny Marine Traders	3.23
Jiya Packagings	3.23
K R M Marine Exports Ltd.	3.23
K.V. Marine Exp.	3.23
Kalyan Aqua & Marine Exp. India Pvt. Ltd.	3.23
Kalyanee Marine	3.23
Kanch Ghar	3.23
Kay Kay Exports	3.23
Kings Marine Products	3.23
Koluthara Exports Ltd.	3.23
Konark Aquatics & Exports Pvt. Ltd.	3.23
Landauer Ltd.	3.23
Libran Cold Storages (P) Ltd.	3.23
Lighthouse Trade Links Pvt. Ltd.	3.23
Magnum Estates Limited	3.23
Magnum Export	3.23
Magnum Sea Foods Limited	3.23
Malabar Arabian Fisheries	3.23
Malnad Exports Pvt. Ltd.	3.23
Mangala Marine Exim India Pvt. Ltd.	3.23
Mangala Sea Products	3.23
Meenaxi Fisheries Pvt. Ltd.	3.23
MSC Marine Exporters	3.23

MSRDR Exports	3.23
MTR Foods	3.23
N.C. John & Sons (P) Ltd	3.23
Naga Hanuman Fish Packers	3.23
Naik Frozen Foods	3.23
Naik Frozen Foods Pvt., Ltd.	3.23
Naik Seafoods Ltd.	3.23
Navayuga Exports	3.23
Nekkanti Sea Foods Limited	3.23
Nila Sea Foods Pvt. Ltd.	3.23
Nine Up Frozen Foods	3.23
Overseas Marine Export	3.23
Paragon Sea Foods Pvt. Ltd.	3.23
Parayil Food Products Pvt., Ltd.	3.23
Penver Products (P) Ltd.	3.23
Pesca Marine Products Pvt., Ltd.	3.23
Pijikay International Exports P Ltd.	3.23
Pisces Seafoods International	3.23
Premier Exports International	3.23
Premier Marine Foods	3.23
Premier Seafoods Exim (P) Ltd.	3.23
R V R Marine Products Private Limited	3.23
Raa Systems Pvt. Ltd.	3.23
Raju Exports	3.23
Ram's Assorted Cold Storage Ltd.	3.23
Raunaq Ice & Cold Storage	3.23
Raysons Aquatics Pvt. Ltd.	3.23
Razban Seafoods Ltd.	3.23
RBT Exports	3.23
RDR Exports	3.23
Riviera Exports Pvt. Ltd.	3.23
Rohi Marine Private Ltd.	3.23
S & S Seafoods	3.23
S Chanchala Combines	3.23
S. A. Exports	3.23
Safa Enterprises	3.23
Sagar Foods	3.23
Sagar Grandhi Exports Pvt. Ltd.	3.23
Sagar Samrat Seafoods	3.23
Sagarvihar Fisheries Pvt. Ltd.	3.23
SAI Marine Exports Pvt. Ltd.	3.23
SAI Sea Foods	3.23
Sandhya Aqua Exports	3.23
Sandhya Aqua Exports Pvt. Ltd.	3.23
Sandhya Marines Limited	3.23
Santhi Fisheries & Exports Ltd.	3.23

Sarveshwari Exp.	3.23
Sarveshwari Ice & Cold Storage Pvt. Ltd.	3.23
Sawant Food Products	3.23
Seagold Overseas Pvt. Ltd.	3.23
Selvam Exports Private Limited	3.23
Sharat Industries Ltd.	3.23
Shimpo Exports	3.23
Shimpo Exports Pvt. Ltd.	3.23
Shippers Exports	3.23
Shiva Frozen Food Exp. Pvt., Ltd.	3.23
Shree Datt Aquaculture Farms Pvt. Ltd.	3.23
Shroff Processed Food & Cold Storage P Ltd.	3.23
Silver Seafood	3.23
Sita Marine Exports	3.23
Sowmya Agri Marine Exports	3.23
Sprint Exports Pvt. Ltd.	3.23
Sri Chandrakantha Marine Exports	3.23
Sri Sakthi Cold Storage	3.23
Sri Sakthi Marine Products P Ltd.	3.23
Sri Satya Marine Exports	3.23
Sri Venkata Padmavathi Marine Foods Pvt. Ltd.	3.23
Srikanth International	3.23
SSF Ltd.	3.23
Star Agro Marine Exports Private Limited	3.23
Sun Bio-Technology Limited	3.23
Suryamitra Exim (P) Ltd.	3.23
Suvarna Rekha Exports Private Limited	3.23
Suvarna Rekha Marines P Ltd.	3.23
TBR Exports Pvt Ltd.	3.23
Teekay Marine P. Ltd.	3.23
Tejaswani Enterprises	3.23
The Waterbase Ltd.	3.23
Triveni Fisheries P Ltd.	3.23
Uniroyal Marine Exports Ltd.	3.23
V.S Exim Pvt Ltd.	3.23
Veejay Impex	3.23
Victoria Marine & Agro Exports Ltd.	3.23
Vinner Marine	3.23
Vishal Exports	3.23
Wellcome Fisheries Limited	3.23
West Coast Frozen Foods Private Limited	3.23
Z A Sea Foods Pvt. Ltd.	3.23

*\ No shipments or sales subject to this review.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.¹⁰ Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹¹ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹² Case and rebuttal briefs should be filed using IA ACCESS.¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically via IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.¹⁴ Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and 3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs,

¹⁰ See 19 CFR 351.224(b).

¹¹ See 19 CFR 351.309(d).

¹² See 19 CFR 351.309(c)(2) and (d)(2).

¹³ See 19 CFR 351.303.

¹⁴ See 19 CFR 351.310(c).

not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1).

For Apex, Falcon, and Devi Fisheries, we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales.¹⁵

For the companies which were not selected for individual review, we will calculate an assessment rate based on the weighted-average of the cash deposit rates calculated for the companies selected for mandatory review (*i.e.*, Apex and Devi Fisheries) excluding any which are de minimis or determined entirely on adverse facts available.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis. Where either the respondent's weighted-average dumping margin is zero or de minimis, or an importer-specific assessment rate is zero or de minimis, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.¹⁶

¹⁵ See 19 CF 351.212(b)(1).

¹⁶ See section 751(a)(2)(C) of the Act.

The Department clarified its “automatic assessment” regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which these companies did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, de minimis within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; 2) for previously reviewed or investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 10.17 percent, the all-others rate made

effective by the LTFV investigation.¹⁷ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

March 4, 2013_____

(Date)

¹⁷ See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India, 70 FR 5147, 5148 (February 1, 2005).

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

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